

**REMARKS**

Claims 1-9 are cancelled, without prejudice, as being drawn towards a non-elected invention. No claims are amended. New claim 21 is added. No new subject matter is present. Reconsideration and allowance of the remaining claims 10-21 is requested in light of the following remarks.

***Information Disclosure Statement***

The IDS filed on March 16, 2004 incorrectly cited U.S. Patent No. 6,426,627 issued to Kikukawa, et al. on July 30, 2002. Thus, the reference was not considered. A new IDS is submitted which correctly cites U.S. Patent No. 6,423,627 issued to Carter, et al. on July 23, 2002.

***Allowable Subject Matter***

Claims 11, 12 and 17-20 are objected to as being dependent upon a rejected base claim, but are otherwise indicated to be allowable if rewritten in independent form to include all the features of the base claim and any intervening claims.

At this time, the applicant wishes to retain these claims in their present form so that the arguments presented below in regard to claim 10 may be fully considered.

***Claim Rejections – 35 U.S.C. § 102***

Claims 10 and 15 are rejected under 35 U.S.C. 102(b) and 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,451,708 to Ha ("Ha"). The applicant disagrees.

In order to anticipate a claim, a single reference must show the identical invention in as complete detail as contained in the claim. MPEP 2131.

Claim 10 recites, *inter alia*, forming a gate insulating layer and a gate conductive layer on a substrate, forming a word line capping layer and a gate capping layer on the gate conductive layer, and patterning the word line capping layer, the gate capping layer, and the gate conductive layer to form a plurality of word line patterns in the cell array region and at least one gate pattern in the peripheral region.

It is alleged that Ha discloses a gate insulating layer 106, a gate conductive layer 108, a word line capping layer 110, and a gate capping layer (however, no reference numeral was given).

To the contrary, Ha FIG. 2A shows that the alleged word line patterns and the alleged at least one pattern are composed only of the alleged gate insulating layer 106, the alleged

gate conductive layer 108, and the alleged word line capping layer 110. In other words, Ha FIG. 2 does not show a gate capping layer, nor does it show patterning the gate capping layer to form a plurality of word line patterns in the cell array region and at least one gate pattern in the peripheral region.

For the above reason, Ha fails to anticipate claim 10. MPEP 2131.

Claim 15 depends from claim 10, and inherently contains the features of claim 10. Consequently, Ha also fails to anticipate claim 15. MPEP 2131.

#### ***Claim Rejections – 35 U.S.C. 103***

Claims 13, 14 and 16 are rejected under 35 U.S.C. 103(a) as being obvious over Ha. The applicant disagrees.

Claims 13, 14 and 16 depend from claim 10. It was demonstrated above that Ha fails to teach all the features recited in claim 10. Consequently, it is not possible for Ha alone to establish a *prima facie* case of obviousness for claim 10. MPEP 2143.03.

Consequently, Ha also fails to establish *prima facie* obviousness for claims 13, 14 and 16 at least because any claim that depends from a nonobvious independent claim is also nonobvious. MPEP 2143.03.

#### ***New Claim 21***


New claim 21 is added. No new subject matter is present, as claim 21 is based upon claim 10 and other features which are found in the originally filed specification. For at least the same reasons as claim 10, Ha does not anticipate claim 21 or establish a *prima facie* case of obviousness for claim 1.

***Conclusion***

Reconsideration and allowance of claims 10-21 is requested. Please telephone the undersigned at (503) 222-3613 if it appears that an interview would be helpful in advancing the case.

Respectfully submitted,

MARGER JOHNSON & McCOLLOM, P.C.

  
Todd J. Iverson  
Reg. No. 53,057

MARGER JOHNSON & McCOLLOM, P.C.  
1030 SW Morrison Street  
Portland, OR 97205  
503-222-3613  
Customer No. 20575

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Stormi R. Davis